

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CHOJIRO KURIYAMA

Appeal No. 1997-1336
Application 08/267,433¹

ON BRIEF

Before HAIRSTON, JERRY SMITH and RUGGIERO, Administrative
Patent Judges.

JERRY SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134
from the examiner's rejection of claims 1-11. Pending claims
12-14 stand withdrawn from consideration as being directed to

¹ Application for patent filed June 29, 1994.

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a nonelected invention. An amendment after final rejection was filed on May 20, 1996 but was denied entry by the examiner.

The disclosed invention pertains to a surface mounting type electronic component. More particularly, an electronic element and a safety fuse wire are connected together and enclosed within a resin package. One end of the safety fuse wire is exposed at a face of the resin package and is covered by a layer-like terminal in electrical connection with the exposed end of the fuse wire.

Representative claim 1 is reproduced as follows:

1. A surface mounting type electronic component comprising:

an electronic element;

a safety fuse wire having one end electrically connected to the electronic element; and

a resin package enclosing the electronic element together with the fuse wire;

wherein the other end of the fuse wire is exposed at a face of the resin package, said face of the resin package together with the exposed end of the fuse wire being covered by a layer-like terminal in electrical connection with the exposed end of the fuse wire.

The examiner relies on the following references:

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Wislocky	3,566,003	Feb. 23, 1971
Bougger	4,926,542	May 22, 1990
Breen et al. (Breen)	5,296,833	Mar. 22, 1994
Yamane et al. (Yamane) (European Application)	0 306 809	Mar. 15, 1989
Neal (European Application)	0 392 087	Oct. 17, 1990

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The following rejections have been made by the examiner:

1. Claims 1, 2, 6, 7, 9 and 10 stand rejected under 35 U.S.C. § 103 as being unpatentable over the teachings of Yamane in view of Bougger.

2. Claims 3 and 4 stand rejected under 35 U.S.C. § 103 as being unpatentable over the teachings of Yamane in view of Bougger and further in view of Wislocky.

3. Claim 5 stands rejected under 35 U.S.C. § 103 as being unpatentable over the teachings of Yamane in view of Bougger and further in view of Neal.

4. Claims 8 and 11 stand rejected under 35 U.S.C. § 103 as being unpatentable over the teachings of Yamane in view of Bougger and further in view of Breen.

Rather than repeat the arguments of appellant or the examiner, we make reference to the brief and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejections advanced by the examiner and the evidence of obviousness relied upon by the examiner as support for the rejections. We have, likewise, reviewed and taken

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into consideration, in reaching our decision, the appellant's arguments set forth in the brief along with the examiner's rationale in support of the rejections and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would have suggested to one of ordinary skill in the art the obviousness of the invention as set forth in claims 1-11. Accordingly, we affirm.

We consider first the rejection of claims 1, 2, 6, 7, 9 and 10 under 35 U.S.C. § 103 as unpatentable over the teachings of Yamane in view of Bougger. These claims stand or fall together except for claim 7 which is argued separately [brief, page 12]. As a general proposition in an appeal involving a rejection under 35 U.S.C. § 103, an examiner is under a burden to make out a prima facie case of obviousness. If that burden is met, the burden of going forward then shifts to the applicant to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See In re Oetiker, 977 F.2d

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1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); In re Hedges, 783 F.2d 1038, 1039, 228 USPQ 685, 686 (Fed. Cir. 1986); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984); and In re Rinehart, 531 F.2d 1048, 1052, 189 USPQ 143, 147 (CCPA 1976). Only those arguments actually made by appellant have been considered in this decision. Arguments which appellant could have made but chose not to make in the brief have not been considered [see 37 CFR § 1.192(a)].

At the outset, we note that appellant's initial argument is that the examiner has failed to make out a prima facie case of obviousness. Appellant should not confuse the prima facie case with the ultimate determination of the relative persuasiveness of the substantive arguments in support of the rejection. In order to satisfy the burden of presenting a prima facie case of obviousness, the examiner need only identify the teachings of the references, identify the differences between the prior art and the claimed invention, and provide a reasonable analysis of the obviousness of the differences which an artisan might find convincing in the absence of rebuttal evidence or arguments.

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With respect to independent claim 1, the examiner notes that Yamane teaches the claimed invention except for the fuse wire being exposed or extended from a face of the resin package. The examiner cites Bougger as a teaching that it was conventional to bond electronic components at the face of a resin package. The examiner concludes that it would have been obvious to extend the Yamane fuse element to the face of the resin package to implement an electrical connection as taught by Bougger [final rejection, pages 3-4]. In our view, the examiner's analysis is sufficiently reasonable that we find that the examiner has satisfied the burden of presenting a prima facie case of obviousness. That is, the examiner's analysis, if left unrebutted, would be sufficient to support a rejection under 35 U.S.C. § 103. The burden is, therefore, upon appellant to come forward with evidence or arguments which persuasively rebut the examiner's prima facie case of obviousness. Appellant has presented several substantive arguments in response to the examiner's rejection. Therefore, we consider obviousness based upon the totality of the evidence and the relative persuasiveness of the arguments.

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Appellant and the examiner do not disagree on what is specifically disclosed by Yamane and Bougger. Appellant argues that there is no suggestion to replace the axial leads 16 of Bougger with a wire fuse as claimed. Appellant also argues that the applied prior art would have suggested to the artisan that the fuse element of a fused, surface mounting type electronic component must be encapsulated by an insulating material [brief, pages 13-14].

It should be noted that the examiner does not propose to replace Bougger's axial leads with a fuse wire. Rather, the examiner proposes to make the electrical connection between a cathode lead and a fuse element of a surface mounting type capacitor occur at the face of a resin package which is where the electrical connection in Bougger is made. Thus, the examiner in considering the scope of claim 1 has considered the obviousness of extending the contact point between fuse element 31 and cathode terminal 23 of Yamane to the edge of resin package 51 to make an edge electrical contact as taught by Bougger.

We agree with the examiner that the artisan would have appreciated the obviousness of making the electrical

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connection between the fuse element and cathode terminal of Yamane occur at the edge of the resin package as suggested by the Bougger electrical connection. The artisan would have recognized the obviousness of connecting the fuse element 31 and the cathode terminal 23 of Yamane at any point along terminal 23, including the point where the edge of package 51 contacts terminal 23.

Appellant's arguments seem to suggest that the claimed fuse wire should be considered as different from other electronic components. We are not persuaded by appellant's bare assertion that teachings which might apply to other electronic components would not apply to a fuse wire as claimed. There is nothing in this record to suggest that an apparent obvious movement of the connection point between a fuse element and a cathode terminal would not equally apply to a fuse wire. Appellant is not precluded from presenting additional evidence or arguments which might provide secondary indicia of the nonobviousness of the claimed subject matter. Our decision simply confirms that, on the record before us, the invention as broadly recited in claim 1 would have been

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obvious to the artisan for the reasons asserted by the examiner.

For all the reasons discussed above, we sustain the rejection of claim 1 as proposed by the examiner. We also sustain the rejection of claims 2, 6, 9 and 10 which are grouped with claim 1. Claim 7 recites that the end of the fuse wire projects slightly from the face of the resin package. The connection in Bougger relies on such a slight projection from the face of the resin package [note lead 44]. Therefore, we also sustain the rejection of claim 7.

With respect to the different rejections of claims 3-5, appellant makes no additional arguments in support of the patentability of these claims, and instead, appellant relies on the arguments made with respect to claim 1 [brief, pages 15-16]. Since we have sustained the examiner's rejection of claim 1 and since no additional arguments are presented, we also sustain the rejection of claims 3-5.

Claims 8 and 11 stand rejected under 35 U.S.C. § 103 as unpatentable over Yamane in view of Bougger and further in view of Breen. Only claim 8 is argued by appellant. Claim 8 recites that the end of the fuse wire is flush with the face

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of the resin package. The examiner cites Breen for teaching a connection in which the ends of a fuse are flush with the enclosing package [final rejection, page 5]. Appellant argues that Breen does not disclose a fuse element which has one end connected to an electronic component and another end flush with a resin package [brief, page 17]. This argument is not persuasive because Yamane is relied on for the teaching of connecting a fuse element between an electronic component and a cathode terminal. Breen is relied on only to show that an electrical connection can be made to a fuse by connecting it at the flush surface of an enclosing package. When we consider the scope of claim 8, we agree with the examiner that the invention as set forth therein would have been obvious to the artisan in view of the teachings of Yamane, Bougger and Breen. Therefore, we sustain the rejection of claims 8 and 11 as proposed by the examiner.

In summary, we have sustained each of the examiner's rejections of the claims. Therefore, the decision of the examiner rejecting claims 1-11 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR

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§ 1.136(a).

AFFIRMED

	Kenneth W. Hairston)	
	Administrative Patent Judge)	
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	Jerry Smith)	BOARD OF
PATENT)	
	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
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	Joseph F. Ruggiero)	
	Administrative Patent Judge)	

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Michael D. Bednarek, Esq.
Crowell & Moring, LLP
1001 Pennsylvania Avenue, N.W.
Washington, DC 20004-2595